

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LEO T. GALLION,

Plaintiff,

v.

NICHOLAS J. ROMEO and MARK S.
DILLMAN,

Defendants.

Case No. 20-CV-120-JPS

ORDER

Plaintiff, representing himself, filed this action on January 27, 2020 while incarcerated. ECF No. 1. With its November 20, 2020 screening order on Plaintiff's amended complaint, the Court mailed Plaintiff copies of the "Answers to Pro Se Litigants' Common Questions" guide and the "Answers to Prisoner Litigants' Common Questions" guide (together, the "Guides"). ECF No. 14-1. The Guides twice informed Plaintiff that if he neglected to update his mailing address with the Court, he "may not receive important information about [his] case," which "could result in [him] losing important rights or losing [his] entire case." ECF No. 14-1 at 3-4, 25.

With the Court's April 11, 2022 scheduling order, the Court mailed Plaintiff a copy of this District's Civil Local Rules regarding motion practice, including summary judgment motion practice. ECF No. 23-1. The scheduling order itself, like the Guides, instructed that

The plaintiff is hereby warned that failure to make a timely submission or otherwise comply with the Court's orders may result in the dismissal of this action for failure to prosecute. The Court further reminds the plaintiff that it is his responsibility to promptly notify the Court if he is released from custody or transferred to a different institution. The plaintiff's failure to keep the Court advised of his

whereabouts may result in the dismissal of this case without further notice.

ECF No. 23 at 7–8.

Thereafter, Defendants filed a motion for summary judgment. ECF No. 29. On November 15, 2022, the Court granted the motion. ECF No. 34. The Court noted that Plaintiff did not file an opposition to the motion and had not provided any address updates to the Court, despite having been informed multiple times of the potential consequences of neglecting to do so. *Id.* at 3. The Court further explained that “the State of Wisconsin Offender Locator indicates that [Plaintiff] was released from MSDF on a DDC Hold to an ‘Unknown’ location on April 13, 2022.” *Id.*

Despite that Plaintiff’s lack of response would be grounds alone to grant the motion, *see* Civ. L.R. 7(d), and Plaintiff’s lack of address update would be grounds to dismiss the action for failure to prosecute, Civ. L.R. 41(c), the Court reviewed the motion on its merits. ECF No. 34 at 5–6 (“[B]ecause [Plaintiff’s] amended complaint was verified, the Court also includes material facts from [Plaintiff’s] amended complaint in the following factual summary, in order to assess whether any genuine dispute of material fact exists.”). The Court determined that there was no genuine dispute of material fact and granted the motion. *Id.* The Court dismissed the action with prejudice and entered judgment accordingly. *Id.* at 14; ECF No. 35.

Now before the Court, some seven months later, is a letter from Plaintiff explaining that he is now back in custody and would like to pursue his case. ECF No. 36. Plaintiff’s request will be denied. As the Seventh Circuit has observed,

[Plaintiff-prisoner] may not have received notice of the defendants' motions or the court's dismissal order; but, like all litigants, he was responsible for monitoring the status of his case by periodically checking the court's docket. This he failed to do, as the district court pointed out. That a litigant did not receive notice because he failed—for more than half a year—to track an active case is not "excusable neglect."

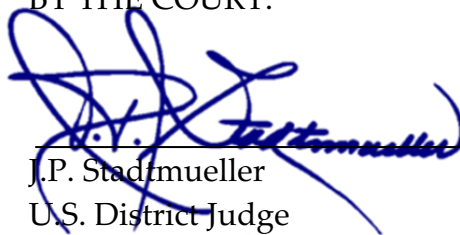
Shaffer v. Lashbrook, 962 F.3d 313, 317 (7th Cir. 2020).

Accordingly,

IT IS ORDERED that Plaintiff's request to continue pursuing his case that was closed on November 15, 2022, ECF No. 36, be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 20th day of June, 2023.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge